



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

AUG 26 2013

REPLY TO THE ATTENTION OF:
WC-15J

Nancy and Lynn Utesch
[REDACTED]
[REDACTED]

Subject: Freedom of Information Act (FOIA)
Identification Number: EPA-R5-2013-007780
Initial Denial for CAFO Data FOIA Requests

Dear Mr. and Ms. Utesch:

This letter is in reference to your Freedom of Information Act (FOIA) request received by the U.S. Environmental Protection Agency on June 30, 2013, in which you requested records relating to all new agricultural reports for Kewaunee County beginning in the fall of 2012.

The Water Enforcement and Compliance Assurance Branch has concluded its search for records responsive to your request and is providing an EPA inspection report for a facility in Kewaunee County. We are also providing a report from the Wisconsin Department of Natural Resources which is responsive to your request. Portions of the records are being withheld because the subject matter of those portions relate to ongoing litigation currently in the Federal District Court of Minnesota. The Plaintiff has sued the Agency to prevent the release of this information. Although the Agency does not believe this information is exempt, the Agency agreed not to produce this information to any requestor while the litigation was pending to allow the court to reach a ruling on the information at issue. You may monitor the docket, name 0:13-cv-01751-RHK-TNL. Once this litigation is resolved, the Agency will promptly inform you of the outcome of this litigation, and you may resubmit your FOIA request with respect to this information.

There is no cost for this FOIA.

This letter concludes our response to your request. You may appeal this response to the National Freedom of Information Officer, U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service, or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider appeals received after the 30 calendar day limit.

The appeal letter should include the tracking number listed above. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

If you have any questions concerning this response please contact Cheryl Burdett of my staff at 312-886-1463.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tinka G. Hyde", with a long horizontal flourish extending to the right.

Tinka G. Hyde, Director
Water Division